IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

WEDNESDAY, THE 31ST OCTOBER 2007 / 9TH KARTHIKA 1929

WP(C).No. 32326 of 2007(W)

PETITIONER:

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1. WIMROCK GRANITE(P)LTD., THEKKUMALA, VADASERIKKARA, REPRESENTED BY ITS MANAGING DIRECTOR, RAJU K.THOMAS, THEKKUMALA, VADASSERIKKARA, RANNI, PATHANAMTHITTA DIST.

2. RAJU K.THOMAS, KADAYATTUMARUTHIVELIL, THADIYOOR, AYROOR VILLAGE, RANNI, PATHANAMTHITTA.

3. MOLY K.THOMAS, KADAYATTUMARUTHIVELIL, THADIYOOR, AYROOR VILLAGE, RANNI, PATHANAMTHITTA.

4. NINO K.THOMAS, KADAYATTUMARUTHIVELIL, THADIYOOR, AYROOR VILLAGE, RANNI, PATHANAMTHITTA.

BY ADV. SRI.P.HARIDAS

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY THE CHIEF SECRETARY, GOVERNMENT OF KERALA, SECRETARIAT, THIRUVANANTHAPURAM.

2. THE REGIONAL TRANSPORT OFFICER, PATHANAMTHITTA.

3. THE DISTRICT EXECUTIVE OFFICER, KERALA MOTOR TRANSPORT WORKERS WELFARE FUND BOARD, PATHANAMTHITTA.

4. THE CHIEF EXECUTIVE OFFICER, KERALA MOTOR TRANSPORT WORKERS WELFARE FUND BOARD, KOLLAM.

BY GOVERNMENT PLEADER SRI.M.K. PUSHPALATHA
SC FOR R3 AND R4 K. HARILAL

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 31/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.

W.P.(C). NO. 32326 OF 2007

Dated this the 31st day of October, 2007

J U D G M E N T

Petitioners seek a declaration that they are not liable to remit the contribution under the Motor Transport Workers Welfare Fund Act. What is urged is that their establishments are covered under the provisions of Employees Provident Fund and Miscellaneous Provisions Act 1952 and hence they are exempted from the provisions of the Welfare Fund Act.

2. Petitioners have produced Ext.P4 to show that up to date contribution in terms of the Employees Provident Fund Act has been paid by them and therefore they are entitled to remit motor vehicle tax without production of a clearance certificate from the 3rd respondent.

3. If as a matter of fact, the vehicles belong to an establishment to which the Employees Provident Fund and Miscellaneous Provisions Act applies, in terms of the provisions of the Motor Transport Workers Welfare Fund Act, they are entitled to be exempted from the provisions of the Motor Transport Workers

Welfare Fund Act. If that be so, the 2nd respondent cannot insist for the production of a clearance certificate, as is now demanded from the petitioners.

In view of the above, I dispose of this writ petition directing that if the vehicles in respect of which tax is tendered by the petitioners belong to an establishment to which Employees Provident Fund and Miscellaneous Provisions Act applies, the 2nd respondent shall not insist on the production of clearance certificate from the 3rd respondent. It is for the petitioners to satisfy the 2nd respondent that their establishment is a covered establishment under the Employees Provident Fund and Miscellaneous Provisions Act. Act and that up to date the Employees Provident Fund dues have been paid by the petitioners in which event the 2nd respondent shall accept Motor Vehicle Tax without production of clearance certificate.

ANTONY DOMINIC, JUDGE

vps